

**Information:**

Western Kentucky University established the Student Life Foundation to fund and renovate student housing. May 21, 1999, the WKU Student Life Foundation Inc. was incorporated as a nonprofit, non-affiliated, tax-exempt Kentucky corporation. The Internal Revenue Service granted the Student Life Foundation 501(c)(3) tax-exempt status in December 1999.

Kentucky law does not specify a process for providing for on-campus student housing through a nonprofit, non-stock Kentucky corporation such as the WKU Student Life Foundation. Representatives of the university, the Finance and Administration Cabinet and other key executive agencies, and members of the General Assembly and legislative staff have discussed procedural requirements and oversight. The Capital Projects and Bond Oversight Committee approved WKU's proposal in March 2000. The Finance and Administration Cabinet worked with WKU and the foundation to establish a management agreement to protect the interests of the university and the Commonwealth. Also, the Council agreed to work with the Secretary of the Finance and Administration Cabinet to develop a procedure to review any similar proposals from other institutions.

**Policy Issues and Discussions**

Western Kentucky University appeared before the Council at its July meeting and before the Capital Projects and Bond Oversight Committee at its September meeting along with the Council on Postsecondary Education, the Finance and Administration Cabinet, and the Auditor of Public Accounts. Some members of the Committee expressed concerns about aspects of the management agreement between WKU and the foundation. But the opinion of a majority of the members of the Committee was favorable. The approach by WKU was seen as an innovative way for universities to address significant needs such as fire safety, renovations, and other auxiliary enterprise activities.

The oversight committee was assured that:

- The transaction does not affect the state's bond capacity or rating.
- The Commonwealth is protected in case of default. The debt service payment is secured by a letter of credit from First Union National Bank of Charlotte, North Carolina.
- Bid practices are not identical to the state process but the university and the foundation can ensure fair bid practices.
- WKU President Gary Ransdell will ask that the foundation remove language in the management agreement shielding the foundation from the Kentucky Open Records Act and the Kentucky Open Meetings Law.
- The Council agreed to work with the Finance and Administration Cabinet to develop a general process to review any proposals similar to WKU's.

## **Current Status of the Project**

The foundation purchased, for the independently appraised value of \$21.5 million, 17 of the 18 residence halls at WKU through the sale of \$65 million in tax-exempt bonds. The foundation has contracted with the university to manage the residence halls. The project involves completely renovating seven buildings and providing mid-level renovations to seven others. Any upgrades in the remaining three would be considered later. All construction will be complete by summer 2005. The construction schedule will complete the installation of fire sprinkler projects two years earlier than previously anticipated. A project schedule is attached.

The Commonwealth's Department of Housing, Buildings and Construction retains jurisdiction over any new construction, installation of sprinkler systems or general renovation, additions, and related work. Construction plans are required to be submitted to the department for its review and inspection. Renovations to the facilities are subject to the Kentucky prevailing wage law. The foundation maintains insurance coverage of the property. Comprehensive general public liability insurance is provided by an insurer rated at least "A" by AM Best. The foundation may also self-insure.